

G. R. S. 58

Previous references.

File No. 54-08.

1908-9

Serial Nos. 1-2

S. R.)

Later references.

16

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-2

Part B. for October, 1908

SUBJECT.

~~Under the~~ Observing that the splitting up of a debt into two or more parts and the execution of a separate document in respect of each thus resulting in a saving of stamp fee, is not illegal under the Stamp Reg.

1) From the Deputy Commr, Shimoga Dist.
No. 63/36 of 1.8.08. (D. 480).

Requests to be instructed as to whether under Sect. 40(1) of the Stamp Regulation, he may certify as duly stamped the two mortgage deeds for Rs 200/- & Rs 50/- executed by one Kotappa and one Basappa of Achala Shimoga Taluk in favour of Rowappa of Nidige village, in lieu of a single mortgage deed for Rs 250/- thus depriving Govt of a portion of the stamp & registration fee.

2) To the D.C. Shimoga & other Dy Commrs
No. 72. 2022-9 of 31.10.08

1908.

GENERAL AND REVENUE SECRETARIAT

(874)

NOTES.

File No. 54-08

FILE HEADING.

Certificate of Dy Commr as to the sufficiency of stamp
under Sec 40(1) of the Stamp Regn in Cases where 2
or more instruments are drawn in lieu of one

From

The Dy Commr Shunjo Dist

No.

63/36

Dated

1/8/08

Received

3/8/08

Diary No.

480

Enclos.

2

Spare Copies .

Serial No. 1

BRIEF ABSTRACT OF LETTER

Requests to be instructed as to whether under Sec
of the Stamp Regn he may certify as duly stamped the 2 mortg
deeds for Rs 200 & Rs 50/. executed by one Kobiappa & one Basappa
of Achalli, Shunjo Dist in favor of Kholappa of Midige village
in lieu of a single mortgage deed for Rs 250/. with intent to deprive
Govt 4 annas from Stamp Duty & 8 annas from the Reg
fee

NOTES AND ORDERS.

The documents referred to have
been inspected by the Dy
Registrar of Shunjo Dist & sent
to the Dy Commr. The Dy Commr

Serial
No.

acting under Sec 10 feels a
doubt whether he can certify
these as sufficiently stamped
& he solicits orders of Govt.
Evidently he has made this
reference to Govt. under Sec.
56(2) of the Stamp Regn.

The point for decision is
whether the documents
have been sufficiently stamped
or not. The Comr is of
opinion that each of these
is itself sufficiently stamped.

Secy. Secy. apply to
the case. For this purpose
it has to be determined which
of the 2 documents is to be con-
sidered as the principal instru-
ment. The documents are
so worded that either of them
may be taken as the principal
instrument. If the one written
on one piece of paper is taken as
the principal instrument it is
sufficiently stamped according to
the provisions of the Section. A
deficient duty of ^{eight} annas will

1 on the 1st or 1st instrument

Stamp duty - 8 annas
Penalty 10 x 8 or 5 Rs.
5-8-0

2 on the secondary 4 annas instrument

Stamp duty 12 annas
Penalty 7 1/2
to 1-8-4

Total duty & penalty Rs 13-4-0

NOTE - Contn. sheet.

	Serial No.	
		penalty will have to be levied on the document and a deficit of Rs. 1200 and penalty on the stamp instrument will be on the account of the State.
Primary instruments Definitive - 104-0 Penalty - 12-8-0 P 13-12-0		The result will be the same even if the latter (if account of the State) is considered to be the principal instrument.
Secondary instruments of the kind be fully stamped		The Comptroller may therefore be informed that the document on one single stamp may be certified as sufficiently stamped and that a deficit of Rs. 12000 & a penalty of Rs. 7-8-0 levied on the State instrument.
562 out of 1000 13-12-0		
		It may be seen that 2 separate documents have been drawn up on one & solely with the object of defining Govt. of its legal estate and the registration fee - the party concerned to be prosecuted under Sec 64. cl. 4. more especially the order for orders paid, who wrote the three instrument and whose in- fidelity, it seems, that has got the parties into this scrape.
		27.8.08 m 119

SR

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of 190

8

(4)

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No.

To Branch III for
favorable opinion

in reply

8/8/28

Subd.

SN
9/19/08

Section 4 of the Stamp
Regn. does not seem to apply
to this case, as it contemplates
an altogether different class of
cases. The point for decision is
whether, the transaction being a
single one, the party can split
it up so that he executes two
instruments instead of one, thereby
depriving Govt. of Stamp duty
to the extent of 4 as. This does not
appear to be illegal under the
Stamp Regn. The fact however remains
that this device may have been
resorted to to evade the Stamp
law. Forwarded to the Govt.

Advocate unofficially for favour
of opinion on the question involved
B.O.

S. K. Mahapatra
for Secy B.

G.O. 14.

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Both the documents refer to a loan of Rs 250/-
and each recites that it was executed for securing
a portion of the debt. The stamp on each document
covers the amount therein named. There is nothing
in the Stamp Regulation prohibiting the splitting up
of a debt into two or more parts and executing a
separate document in respect of each, though by ---
doing so one may save some stamp fee. Section 4 of the
regulation refers to a case where more documents --
than one are executed for completing a single trans-
action, and cannot be construed to be a prohibition
against splitting up of a debt. A fiscal enactment
like the Stamp Regulation must be construed liberal-
ly in favour of the subject. I am of opinion that
the documents are duly stamped.

S. N. Mayanadas
Govt Advocate.

18.9.08

II 521919

SR
21/9/08

To Sr^{ce} III in the first instance

19/9

Subd grades-

SR
21/9/08

Forwarded to Br II with the
opinion of the Govt Advocate who
agrees with my view in my note
(vide lat page)

SR

Drafted for order Draft in accordance
with Govt Advocate's opinion

SR
21/9/08

21.9.08
9328

Serial
No.

Draft ruled
to Secy
24/10/08

12

Genl Secy

26/9/08

Let me see Jaganathayya's
Comments on the Indian Stamp Act -
12/10/08

ruled with the book page

5/10/08

to Secy
17.10.08

12/10
Genl Secy

26/9/08

The opinion expressed by the
for Advocate & correct -
Please see Jaganathayya's Stamp Act
at the following passages: - page 228,
second sentence; and page 232, para 2.

Please draft an order, reading
the for Adv's letter in full, & communicating
it to the Secy, & submit it to Secy
for approval -
12/10/08

Put up draft

Approved
12/10/08

Draft submitted to Secy for approval

Serial
No.

2.

To the Dy. Comr. Shimoga, and Dy. Comr
of other districts. Fl. 2022-9.Q. 31-10-08.
Replies that the Stamp Regulations
cannot prohibit the of splitting operat^{ns}
and therefore the documents in
question are duly stamped.

β.
f

137/491 1173/8 480
1908 54-88
From H. Chandy Engineer, P.H.
Off Deputy Commissioner
Shimoga Dist.

To H.S. Chaudrashekara Engineer
Secretary to Government
General and Revenue Department

Dated 1st August 1908

Despatched

Received

General No. 63
No. 36

Enclosure No. 2 documents

Requests that he may be so
as to inform whether the undersigned
may certify such instruments
duly stamped.

No. 63 En 2
36

Deputy Commissioner's Office
Shimoga, 1st August 1908

From,

H. Chaudy Esquire, B.A.
Off Deputy Commissioner
Shimoga District

2,

H.S. Chaudreskhara Esquire, B.A. &
Secretary to Government
General and Revenue Departments

I have the honor to state that one Motappa and one Basappa of Buchelli, Shimoga Taluk, have borrowed Rs 250/- from Nowlappa of Kidige village on the security of certain immovable properties and executed two documents one for Rs 200/- on Re 1/- stamp paper and another for Rs 50/- on four annas paper and in each of the instruments reference is made to the full amount of the loan, viz., Rs 250/-. If only one instrument had been executed, the proper stamp duty would have been according to article 38 (b) of the Mysore Stamp Regulation of 1900, Rs 1-8-0. By splitting up the transaction and executing two instruments, the Government has been deprived of Rs 4-0 under the head 'stamp', and Rs 8-0 under 'registration'.

2. As each instrument is in itself sufficiently stamped, I do not see my way to deal

deal with it in any other way than under section 40 (1) (a). I request that you may be so good as to inform me whether I may certify such instruments as duly stamped.

3. If these instruments can be regarded to be duly stamped, the rates for stamp duty and registration will require to be revised. The documents are herewith sent for reference.

I have the honor to be
Sir

Your most obedient servant

Alaandy

Off Deputy Commissioner
Shimoga Dist

*Please type
3 copies*

*1 press copy & 2 for Mr.
Moring come after
noon 2/10*

File No.

Serial No.

*54
of
2*

Diary No. of letter replied to

480

Proceedings of the Government of His Highness
the Maharaja of Mysore.

GENERAL AND REVENUE
SECRETARIAT.

(504)

READ—

190

Date of issue

21st Oct 1908

Signed by

M. M. B. K. K.

*(to be read in
extenso)*

*Letter no 63/36-2
1811 Accepted from the
by Comr. Mysore Dist.
submitting 2 documents
submitted by Kotappa &
Kasappa of Anelli. ~~Letter~~
Mysore Dist. in favor
of one Kasappa and
disallowed by the Sub
Registrar of Mysore,
stating that the docu-
ments are in the Mysore
Mysore Dist. and
have been accepted*

over

SUBJECT

in lieu of a single document
with a view to save 4
cents in the shape of Stamp
Duty, & 8 cents in the
shape of Registration fees
and requesting order
is to whether he can
certify ~~such~~ ^{if such documents} as duly
stamped under ~~the~~
Sec 40(1)(a) of the Stamp
Regn.

Order thereon no Dd 2022-9
S. A 521-08-2 } 31-10-08

Both the documents
refer to a loan of Rs 250/-
and each recites that
it was executed for
securing a portion of
the debt. The Stamp on
each document covers
the amount therein
named. There is nothing
in the Stamp Regulation
prohibiting the splitting
up of a debt into two or

G.R.S. 27]

GENERAL AND REVENUE
SECRETARIAT.

(Continuation Sheet draft form.)

more parts need ^{the} ~~the~~
cutting of a separate
document in respect

of each though by
doing so ^{a portion of the} ~~one~~ may

save ~~some~~ stamp
fee ^{maybe saved} Govt. are

therefore of opinion
that the documents

in question are duly
stamped.

MM
repro
Print

²⁶ 26 of Secretary
to the Dy. Commr. Secy.
to the Dy. Commr. Secy.
to the Dy. Commr. Secy.
the documents
the Dy. Commr. Secy.
to the Dy. Commr. Secy.

Typed
2/2/10
20/10

*Proceedings of the Government of His Highness the Maharaja of Mysore,
Financial (Separate Revenue), dated 31st October 1908.*

READ—

Letter No. 63—36, dated 1st August 1908. from the Deputy Commissioner, Shimoga District.

I have the honor to state that one Kotrappa and one Basappa of Anchalli, Shimoga Taluk, have borrowed Rs. 250 from Nowlappa of Nidige village on the security of certain immoveable properties and executed two documents one for Rs. 200 on one rupee stamp paper and another for Rs. 50 on four annas paper and in each of the instruments reference is made to the full amount of the loan, viz., Rs. 250. If only one instrument had been executed, the proper stamp duty would have been according to article 38 (b) of the Mysore Stamp Regulation of 1900, Rs. 1-8-0. By splitting up the transaction and executing two instruments, the Government has been deprived of four annas under the head "Stamp" and eight annas under "Registration".

2. As each instrument is in itself sufficiently stamped, I do not see my way to deal with it in any other way than under Section 40 (1) (a). I request that you may be so good as to inform me whether I may certify such instruments as duly stamped.

3. If these instruments can be regarded to be duly stamped, the rates for stamp duty and Registration will require to be revised. The documents are herewith sent for reference.

No. FL. 2022-7—S. R. 54-08-2, DATED BANGALORE, 31ST OCTOBER 1908.

ORDER THEREON.—Both the documents refer to a loan of Rs. 250 and each recites that it was executed for securing a portion of the debt. The stamp on each document covers the amount therein named. There is nothing in the Stamp Regulation prohibiting the splitting up of a debt into two or more parts and the execution of a separate document in respect of each, though by doing so a portion of the stamp fee may be saved. Government are therefore of opinion that the documents in question are duly stamped.

K. S. CHANDRASEKHARA AIYAR,
Secy. to Govt., Gen. & Rev. Depts.

To—The Deputy Commissioner, Shimoga District, returning the documents.
The Deputy Commissioners of other Districts.

Exd.—c. s.

1908-09

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

FINANCIAL
(SEPARATE REVENUE)

PROCEEDINGS

Dated 31st October 1908

No. $\frac{\text{Fl. 2022-7}}{\text{S. R. 54-08-2}}$

Observing that the splitting up of a debt into two or more parts and the execution of a separate document in respect of each, resulting in a saving of a portion of the stamp fee, is not illegal under the Stamp Regulation.